

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1225 B 131/A	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/CH2004/000176	International filing date (day/month/year) 23.03.2004	Priority date (day/month/year) 22.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant MAETZKE, Thomas		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 3 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☒ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. 1 Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-17 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-13 received by this Authority on 02.02.2005 with letter of 10.12.2004
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/3-3/3 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☒ the claims, nos. 1 _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-13	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-13	NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Reference is made to the following documents:			
D1: EP-A-1 239 277 (INFINEON TECHNOLOGIES AG) 11 September 2002 (2002-09-11)			
D2: US-A-4 929 929 (ROMER EIKE) 29 May 1990 (1990-05-29).			
1) The present application does not satisfy the requirements of PCT Article 33(1) since, <u>insofar as it is understood correctly (see Box VIII below)</u> , the subject matter of claims 1-13 does not involve an inventive step within the meaning of PCT Article 33(3).			
2) Independent claim 1			
2.1) Document D1 discloses (see figures 1-2 and the corresponding passages) a safety device (see column 5, line 4) for laboratory use, comprising a measurement system (1a), which is connected to a liquid container (21) and a laboratory work surface (20) and triggers an alarm signal when it detects spilled liquid on the laboratory work			

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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surface (see column 5, lines 4-17).

2.2) The device according to claim 1 of the present application therefore differs from the device known from document D1 only in that the measurement system is a fill level measurement system which also raises an alarm when it detects a defined liquid level in the fluid container.

2.3) The problem to be solved by the present invention is therefore understood to be that of creating a safety device with which an alarm can be raised, depending on the quantity of spilled liquid.

2.4) The solution proposed in claim 1 of the present application cannot be considered inventive, for the following reasons:

The above features were already used for the same purpose with a similar safety device (see document **D2**, in particular column 1, line 44, to column 2, line 33, and column 4, lines 24-54). To a person skilled in the art it is therefore obvious to also use these features to corresponding effect with a safety device according to document **D1** and in this way to arrive at a safety device according to claim 1.

3) **Dependent claims 2-13**

3.1) Dependent claims 2-13 contain no features which, combined with the features of any claim to which

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement
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they refer, meet the PCT requirements for
inventive step. The reasons are as follows:

3.2) The additional features of claims 2 and 4-10 are
already known from document **D1** and **D2**:

- claim 2: see document **D2**, figures 1-2;
- claims 4-5: see document **D2**, figure 1, and
column 5, lines 20-23;
- claim 6: see document **D2**, figure 1, the drum
adapter (48);
- claims 7-8: see document **D1**, figure 1, and
column 5, lines 11-17, and document **D2**, column
3, lines 22-28;
- claim 9: see document **D2**, column 2, lines 12-
17;
- claim 10: see document **D2**, column 2, lines 6-
22.

3.3) The additional features of claims 3 and 11-13 are
routine features a person skilled in the art would
use according to the circumstances.

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- 1) For the following reasons the claims do not satisfy the clarity requirements of PCT Article 6.
- 2) **Claim 1** attempts to define the invention in terms of features relating to the use of the subject matter. The claim does not define the subject matter itself but its relationship to further subjects, that is to say, the "connection" between the safety device and "a laboratory work surface" and a "liquid container". However, at least the laboratory work surface does not appear to be part of the safety device (see the PCT Guidelines, chapter III-4.8(a)) and the nature of the specified "connections" was not defined in the claim.
- 3) The feature in **claim 1** "(...) if it detects liquid spilled on to the at least one laboratory work surface" is not clear since a person skilled in the art does not know which liquid is referred to: liquid spilled from the liquid container defined earlier (which would be inconsistent with the description) or a further liquid, which "spills" out of an undefined "element"?

In addition, it is not clear whether the liquid in the liquid container is the same one as the "spilled liquid" or a further, different liquid.

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Box No. VIII Certain observations on the international application

- 4) The features in claims 11-12, "which cuts ..." relate to a method for *the use of the device* and not the definition of the device in terms of its technical features. Therefore, contrary to PCT Article 6, the intended restrictions are not clear from the claim.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box I.4

- 1) The amendments submitted with the letter of 10 December 2004 introduce substantive matter which, contrary to **PCT Article 34(2)**, goes beyond the disclosure in the international application as filed. The amendment concerned is the following, underlined feature of claim 1: "the fill level measurement device is further connected on the flow side to at least one laboratory work surface".

This feature cannot be derived *directly* and *unambiguously* from the description, for the following reasons:

- no passages supporting the amendment were found or specified in the application originally filed.
- the flow was not defined in claim 1 and hence the broad wording "on the flow side" cannot be understood by the reader.

- 2) This report was established without taking into consideration the above amendment, since, for the specified reasons, it goes beyond the disclosure in the application as originally filed (PCT Rule 70.2(c)).